

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper No. 108

Filed by: Trial Section Motions Panel  
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Filed May 18, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

STEPHEN CHARLES INGLIS, MICHAEL EDWARD GRIFFITH BOURSSELL  
and ANTHONY CHARLES MINSON,

**MAILED**

Junior Party,  
(Patents 5,665,362 and 5,837,261)

MAY 18 2001

v.

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER,

Senior Party,  
(Application 08/278,601)

Patent Interference No. 104,363

**ORDER REDECLARING INTERFERENCE**  
(37 CFR § 1.611)

In view of the decision on preliminary and other miscellaneous motions (Paper  
107), it is

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ORDERED that the interference is redeclared as follows:

1. The following new Count 2 is substituted for Count 1<sup>1</sup> (material deleted from Count 1 shown in strikeout and material added to Count 1 shown in **bold**):

Count 2

A composition according to claim 1 of Inglis '261 or any of claims 1 or 24 of Inglis '362 or ~~any of claims 1, 5, 9, 25, 42-45~~ **claim 49** of Knipe

or

a method according to any of claims 20, 24 or 41 of Inglis '261 or claim 13 of Inglis '361 or any of claims ~~12, 17, 18, 32, or 37~~ **35 or 40** of Knipe.

A clean copy of Count 2 reads as follows:

Count 2

A composition according to claim 1 of Inglis '261 or any of claims 1 or 24 of Inglis '362 or **claim 49** of Knipe

or

a method according to any of claims 20, 24 or 41 of Inglis '261 or claim 13 of Inglis '362 or any of claims 35 or 40 of Knipe.

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<sup>1</sup> Count 1 is reproduced at Paper 1, p. 48.

**2. The claims of the parties are:**

Inglis '261:	1-41
Inglis '362:	1-24
Knipe:	1-9, 12-22, 25-27, 29, 31-49 <sup>2</sup>

**3. The claims of the parties that correspond to Count 2 are:**

Inglis '261:	1-41
Inglis '362:	1-24
Knipe:	1-9, 25-27, 29, 32-35, 37-40 and 42-49 <sup>3</sup>

**4. The claims of the parties that do not correspond to Count 2, and therefore are not involved in the interference on the issue of priority, are:**

Inglis '261:	None
Inglis '362:	None
Knipe:	12-22, 31, 36 and 41

**5. Inglis '261 is accorded benefit for the purpose of priority as to Count 2 of:**

- (1) U.S. application 08/168,643, filed December 16, 1993,
- (3) U.S. application 08/030,073, filed May 20, 1993,
- (6) PCT application PCT/GB91/01632, filed September 23, 1991,
- (7) British application 9104903.01, filed March 8, 1991,
- (8) British application 9020799.4, filed September 25, 1990,

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<sup>2</sup> The examiner has indicated that Knipe claims 46 and 49 are unpatentable.

<sup>3</sup> Knipe claims 1-9, 12-15, 17-21, 25-27, 29, 32-34, 36-39 and 41-48 have been held unpatentable. See Paper 106.

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(2) British application 9324964.7, filed December 6, 1993,

(4) British application 9305710.7, filed March 19, 1993,

(5) British application 9226172.6, filed December 16, 1992.

6. Inglis '362 is accorded benefit for the purpose of priority as to Count 2 of

(1) U.S. application 08/030,073, filed May 20, 1993,

(2) PCT application PCT/GB91/01632, filed September 23, 1991,

(3) British application 9104903.01, filed March 8, 1991 and

(4) British application 9020799.4, filed September 25, 1990.

7. Knipe is accorded benefit for the purpose of priority as to Count 2 of

(1) U.S. application 08/179,106, filed January 10, 1994 and

(2) U.S. application 07/922,912, filed July 31, 1992.

8. Since the priority benefit date of Inglis (September 25, 1990) is earlier than the priority benefit date of Knipe (July 31, 1992), the order of the parties is reversed thereby making Inglis senior party.

FURTHER ORDERED that, to the extent applicable, the procedures set forth in the attached STANDING ORDER are in effect for the remainder of the interference.

FURTHER ORDERED that the caption of papers filed in the remainder of the interference shall be the caption as set forth in the appendix to this ORDER.

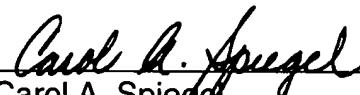
FURTHER ORDERED that within **14 (fourteen) days** of the date of this ORDER, each party shall either: (1) file a statement indicating that it is relying on the preliminary

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statement it has already filed in the interference for the subject matter of Count 2 or  
(2) file a new preliminary statement for the subject matter of Count 2.

FURTHER ORDERED that a conference call is scheduled for **May 25, 2001** at  
**10:00 am** to set times for taking action during the priority phase of the interferences.

The call will be initiated by the PTO.

  
Carol A. Spiegel  
Administrative Patent Judge

Date: May 18, 2001  
Arlington, VA

Enc: Copy of STANDING ORDER

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APPENDIX

Paper No. \_\_\_\_\_

Filed on behalf of: Party  
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UNITED STATES PATENT AND TRADEMARK OFFICE  
(Administrative Patent Judge Carol A. Spiegel)

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

DAVID KNIPE, ROBERT FINBERG and GEORGE SIBER,

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TITLE OF PAPER

Interference No. 104,363

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104,363

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